

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

PATRICIA J. RECKLEY,

Plaintiff,

vs.

COMMUNITY NURSING, INC. d/b/a  
THE VILLAGE HEALTH AND  
REHABILITATION,

Defendant.

CV 19-119-M-KLD

**ORDER**

On August 30, 2021, the Court issued an order granting Defendant Community Nursing, Inc. d/b/a The Village Health & Rehabilitation's ("The Village") motion to exclude pro se Plaintiff Patricia Reckley's expert witness. (Doc. 99). On September 9, 2021, Reckley filed a Motion for Leave to File a Motion for Reconsideration of the Court's order August 30, 2021 order. (Doc. 119).

Local Rule 7.3(a) provides that "[n]o one may file a motion for reconsideration of an interlocutory order without prior leave of court." Pursuant to Local Rule 7.3(b), a party seeking leave to file a motion for reconsideration must

demonstrate at least one of the following: (1) the facts or applicable law are materially different from the facts or applicable law that the parties presented to the court, and despite the exercise of reasonable diligence, the party applying for reconsideration did not know such fact or law before entry of the order; or (2) new material facts arose or a change of law occurred after entry of the order. L.R. 7.3(b)(1) and (2).

Reckley's motion does not meet either of these requirements. Reckley argues that despite due diligence, she was not aware until after the Court entered its August 30, 2021 order that there is procedure "for issuing a subpoena who lives beyond the 100-mile limit specified in the local subpoena instructions." (Doc. 119, at 1). These are not new material facts, and do not represent a change in the law. And even assuming Reckley had been aware of the procedure to subpoena an out-of-state witness, The Village's motion to exclude her proffered expert would have been granted for all of the same reasons set forth in the August 30, 2021 order. Thus, Reckley has not shown that that the facts or applicable law are materially different, as required to seek reconsideration of the Court's August 31, 2021 order. Accordingly,

IT IS ORDERED that Plaintiff's Motion for Leave to File a Motion for Reconsideration (Doc. 119) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion to Strike (Doc. 129) is  
DENIED AS MOOT.

DATED this 12th day of October, 2021.



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Kathleen L. DeSoto  
United States Magistrate Judge